

**COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION  
DIVISION OF ENERGY RESOURCES**

**Background Document  
On Proposed Revisions to the  
Regulations for the Massachusetts  
RENEWABLE ENERGY PORTFOLIO STANDARD  
225 CMR 14.00**

June 2, 2006

**A. INTRODUCTION**

The Massachusetts Division of Energy Resources (“DOER”) seeks public comment on an amended regulation 225 CMR 14.00, the Massachusetts Renewable Energy Portfolio Standard. The “Notice of Public Hearing on Proposed Regulations” was submitted to the Secretary of the Commonwealth on June 2, 2006, for publication in the *Massachusetts Register* on June 16, 2006. In addition, the Notice was sent to three newspapers of general circulation on June 2, 2006, for publication no later than June 7, 2006.

The Massachusetts Renewable Energy Portfolio Standard (“RPS”) was enacted on November 25, 1997 as G.L. c. 25A, sec. 11F. As directed by the statute, the Division of Energy Resources (DOER) promulgated the RPS regulations in April, 2002 as 225 CMR 14.00. The purpose of the RPS regulation is to promote the development of electric power generation that uses renewable energy resources. The statute and regulation provide that retail electricity suppliers selling electricity in Massachusetts are required to include a prescribed, annually-increasing percentage of supply from qualified renewable generators.

During the four years of administration of the RPS program, both DOER (as the regulator) and renewable energy industry participants (as the regulated) have identified certain provisions of the regulations that require clarification or modification in order best to accomplish the intent of the enabling statute. To a considerable extent, these clarifications concern the manner in which DOER will qualify biomass energy units under the statutory criteria of “low emissions” and “advanced power conversion technology.”

DOER has undertaken a detailed review of the regulations and consulted with numerous stakeholders since July 2005 to develop a comprehensive amended RPS regulation. We believe this amended regulation addresses the numerous issues that DOER and the stakeholders identified in the review process as requiring attention.

## B. POLICY OBJECTIVES

The RPS is expected to stimulate development of new electric generating units that use renewable fuels and technologies, and thereby accomplish the following policy objectives:

- Increase the share of our electricity generated by new renewable resources;
- Decrease atmospheric pollution from the New England fleet of power plants that serve Massachusetts consumers;
- Diversify the fuels used to generate power that serves Massachusetts consumers;
- Decrease our reliance on fossil fuels imported from other regions; and
- Moderate price volatility caused by reliance on imported fossil fuels.

The proposed revisions are intended to ensure that the RPS will better accomplish the above policy objectives by clarifying and improving the criteria by which power plants are qualified for RPS, by committing DOER to a date by which the continuation of RPS minimum percentages for the period beyond 2014 will be decided, and by clarifying how retail electricity suppliers must ascertain and document their compliance with RPS.

## C. SUMMARY OF THE PROPOSED REVISIONS

The proposed revisions to the RPS regulation include the following significant changes:<sup>1</sup>

1. Clarifies the following issues regarding the biomass Generation Units:
  - a. Defines “low-emission, advanced biomass power conversion technologies,” with reference to the concurrently-issued *Guideline on the RPS Eligibility of Biomass Generation Units*, which DOER also offers for public comment. Eligibility criteria are detailed in the Guidelines. At 14.05 (1) (a) 6.
  - b. Provides that the *Guideline* may be updated periodically, but any revised eligibility criteria would take effect 24 months following publication of a revised *Guideline*. At 14.05 (1) (a) 6.a.
  - c. Requires that a biomass Unit<sup>2</sup> with a Commercial Operation Date prior to 1998, whether retooled or not, can qualify only under a Vintage Waiver and must meet the criteria applicable to new plants at the time the Unit’s Statement of Qualification application is filed with DOER. At 14.05 (1) (a) 6.b & 6.d, and at 14.05 (2) (d) 4.
  - d. Clarifies the inclusion of construction and demolition (C&D) wood as an Eligible Biomass Fuel. At 14.02.
2. Distinguishes between a New Renewable Generation Unit and the newly-introduced term, “RPS Qualified Generation Unit.” At 14.02.

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<sup>1</sup> References are to relevant sections of 225 CMR 14.00, and capitalized terms are defined in the RPS Regulation at 14.02 or are introduced in other sections of the Regulation.

<sup>2</sup> “Unit” in this summary refers to a Generation Unit as that is defined in the RPS Regulation at 14.02.

3. Addresses several “vintage” issues (applicable to Generation Units that operated prior to 1998) at 14.05 (2) (c), specifically:
  - a. Allows pre-1998 generation equipment moved into the ISO-NE Control Area or into an adjacent Control Area that did not previously operate in either area, to be eligible to qualify as a New Renewable Generation Unit.
  - b. Clarifies that a pre-1998 Unit that did not previously utilize Eligible New Renewable Fuel(s) is eligible to qualify as a New Renewable Generation Unit.
  - c. Allows a Unit installed at a site where a Renewable Generation Unit had operated prior to 1998 to become an RPS Qualified Generation Unit without a Vintage Waiver – except in the case of a landfill gas Unit located at the site of a pre-1998 landfill gas Unit. Also at 14.05 (1) (d) 4 and 14.05 (2) (b).
  - d. See item 1.c, above.
4. Clarifies the definition of Commercial Operation Date and the newly introduced RPS Effective Date, when an RPS Qualified Generation Unit may begin earning MA RPS-qualified renewable energy Certificates (so-called “RECs”) at the NEPOOL GIS. At 14.02 and 14.06 (4).
5. Expands New Renewable Generation to include output onto the ISO New England grid of electricity from distributed generation Units outside of Massachusetts, subject to certain metering requirements. At 14.05 (1) (d) 1.
6. Introduces the new term “Composite Fuel” and provides for its partial eligibility in a revised “Co-Firing and Composite Fuel Waiver.” 14.02 and 14.05 (3).
7. Clarifies that, for power imported into the ISO-NE Control Area from an RPS Qualified Generation Unit in an adjacent Control Area and claimed for RECs, production of the imported power be documented for each hour of the month, not averaged over the whole month. At 14.05 (5).
8. Codifies that an Aggregation of small Units (typically photovoltaic systems) can apply for and collectively receive a single Statement of Qualification and be treated as a single RPS Qualified Generation Unit (a procedure already in practice). At 14.05 (6).
9. Codifies the acceptability of an “authorized agent” to act on behalf of Generation Unit(s) Owners or Operators. At 14.05(6) (b), 14.06 (1), and elsewhere.
10. Eliminates the Advisory Ruling provision, currently at 14.06 (5), and provides in the new *Guideline on the RPS Eligibility of Biomass Generation Units* explicit and detailed criteria and procedures for qualifying biomass units.
11. Introduces a new Notification requirement regarding changes in a Unit’s ownership, generation capacity, or contact information. At 14.06 (6).
12. Introduces a provision for a new Statement of Qualification to terminate 48 months from the date of issuance unless the Unit commences commercial operation within that period. At 14.06 (7).

13. Provides for existing Advisory Rulings to expire six months after the effective date of the Regulatory revisions. At 14.06 (8).
14. Commits DOER to provide, when it issues its decision at the end of 2007 regarding 2010-2014 RPS annual percentage increases, a date for a second such RPS extension decision. At 14.07 (2).
15. Designates the Massachusetts Technology Park Corporation as a recipient of Alternative Compliance Payments, but provides that DOER may designate another entity. At 14.08 (3)
16. Clarifies and codifies that the load obligation upon which the Retail Electric Suppliers must comply with the RPS minimum standard is to be based on the available NEPOOL GIS data representing retail load served, inclusive of distribution line losses. At 14.09 (2) (a) and (b).
17. Adds a Severability provision. At 14.13.

The above list is not exhaustive and is limited to identifying substantive changes. In addition, DOER's proposed revisions include some minor procedural or definitional clarifications, technical updates, corrections, and cross referential changes.